1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

PROPERTY, INHERITANCE AND CONTRACT

421 Among settled peoples with fixed property and diversified economics the institutions of land tenure, disposition and inheritance, the treatment of chattels and the obligations of contract make up the better half of the material about which law centers. Or, as Professor Radcliffe-Brown writes, "With us one of the most important aspects of succession is the transmission of property by inheritance." But the study of Comanche practice offers little of note on this phase of the subject. For as Radcliffe-Brown continues, "Yet in some of the simplest societies this is a matter of almost no significance at all. In an Australian tribe, for example, a man possesses a few weapons, tools, utensils, and personal ornaments, things of little value or permanence. On his death some of them may be destroyed, others may be distributed among his relatives and friends. But their disposal is of so little importance, unless in relation to ritual, that it is often difficult to find any rules of customary procedure."[1]

If this statement had been written for the Comanches, it could scarcely have been more apt.

LAND TENURE

423 The Comanches had no concept of land value. As herding hunters, land was a matter of unconcern for them, being held neither individually, jointly nor communally. One may merely speak of land as having been communally occupied. The possibility of dividing hunting grounds or seed patches by families as was done among the northeastern Algonkians[2] was not considered, for as Schoolcraft wrote of the Comanches, "No dispute ever arises between the tribes (bands) with regard to their hunting grounds, the whole being held in common."[3] Within the tribe, therefore, land tenure was infertile soil for legal conflict. Trespass by persons of enemy tribes meant death, [648] unless it was a woman whom they cared to take as a captive, or unless the warrior escaped by display of cunning or bravery. "Friendlies" could visit with impunity and partake of Comanche game without danger.

CHATTELS

422 Wealth for the Comanche centered largely in horses. The economics of horse ownership has been discussed above (pp. 14–15).

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[1] A. R. Radcliffe-Brown, *Patrilineal and Matrilineal Succession* (Iowa Law Review, Vol. XX), pp. 286 ff.

[2] F. G. Speck, *Family Hunting Territories* (Canadian Geological Survey, Memoir 70, 1915).

[3] Schoolcraft, *History of the Indian Tribes, etc.*, Vol. 2, p. 131.

20: Wallace H-4,5 (1945) 1953 NO6 Comanche NO6

by one the chiefs were won over, and in 1892 a group of them signed the Jerome Agreement. The agreement provided for an allotment of 160 acres of land to each Indian, for a common tribal reserve of approximately one-half million acres, and for the opening of the remainder of the reservation to white settlers. The assignment of allotments was completed in 1901 and before the end of the next year thousands of white settlers had swarmed into the territory. But the "Boomers" were not satisfied with the partial opening, and in 1906 the remainder of the reserved lands were thrown open after the 517 Indian children born after allotments had been completed in 1901 had been granted their 160 acres each. Simultaneously, steps were being taken to obtain statehood, and in November of 1907 Oklahoma was formally proclaimed a state of the Union.[2]

Aside from annuities as provided by the treaty of Medicine Lodge, the economy of Comanche reservation society has been based on leases, wage labor, and agriculture. Money from leases provided the first significant revenue. It was enough to allow the government to reduce rations and to permit thrifty and ambitious Comanches the means for starting forth on the white man's road. Leases were of three kinds: permits to graze livestock on the common tribal lands, oil leases and the sale of royalties, and leases of individual allotments for agriculture.

The first grazing leases were made by Agent P. B. Hunt, who persuaded a group of cattlemen to contribute beeves in return for the privilege of grazing cattle on the reservation. The cattlemen had quickly spread their herds over the vast areas vacated by the Indians. Each year hundreds of thousands of head were driven to the northern markets. The Abilene Trail followed the eastern line of the Kiowa-Comanche Reservation; the Dodge City or Great Western Trail crossed its western extremity. By 1877 the Comanches

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2. This introduction is largely from Wallace and Hoebel, *op. cit.*; cf., R. N. Richardson, The Comanche Barrier to South Plains Settlement (Glendale, California, 1933), for an excellent account with a different approach.

20: Wallace H-4,5 (1945) 1953 NO6 Comanche NO6

After a prolonged controversy, Congress on June 6, 1900, enacted the Jerome Agreement into law, and on July 4, 1901, a presidential proclamation ordered its execution. For the surrendered lands the Indians were to be paid $2,000,000 in four equal installments whenever the Secretary of the Interior deemed it best for the Indians; the unpaid balance was to draw 5 per cent interest, the interest to be paid annually. The law set aside 480,000 acres for a reserve to be held in common by the tribes. On September 1, 1902, all except 60,000 acres of this reserve had been leased for grazing to the highest bidder at rates ranging from twenty-five cents to two dollars an acre, or for a total of $132,269.90 for the year.[7] This was approximately $36 for each Indian man, woman, and child on the reservation. When the reserve was opened to the "Boomers" in 1906, the Indians were left without any common tribal lands to lease.

The individual allotment lease for agricultural purposes replaced the lease of tribal lands held in common. From the first, this type of land rental has been an important factor in Comanche life. After allotments were assigned, each Indian, with agency approval, could lease his own land. From October 1, 1901, when individual leasing began, until September 1, 1902, the agency approved 443 individual agricultural leases.[8] White men who leased Indian private land for agricultural purposes were required to make certain improvements on it. Those leasing in 1910 for a term of five years were required to place on each allotment a three-room house, a well, and to fence the land. The three-year lessees were to fence the land and to make certain general repairs. All improvements were to remain on the land when the lease expired, and they became the property of the land owner.[9]

The wisdom of such a policy is not difficult to understand. The Comanches did not know how to build houses or to improve their farms. They had not yet learned the value of

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7. Agent James F. Randlett, Annual Report, September 1, 1902, in Commissioner of Indian Affairs, Annual Report, 1902, pt. I, 286.

8. Ibid.

9. Superintendent Kiowa-Comanche Agency, Annual Report, September 1, 1910 (Oklahoma Historical Society Library, correspondence files).